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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2013-654

12 **PETER JOHN ELLINGTON**
13 **9200 Popes Creek Court**
McKinney, Texas 75071-6058

A C C U S A T I O N

14 **Registered Nurse License No. 679874**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about May 26, 2006, the Board of Registered Nursing issued Registered Nurse
23 License Number 679874 to Peter John Ellington (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

...

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

10. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

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(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

- 1 (b) Failure to comply with any mandatory reporting requirements.
- 2 (c) Theft, dishonesty, fraud, or deceit.
- 3 (d) Any conviction or act subject to an order of registration pursuant to
Section 290 of the Penal Code.

4 12. California Code of Regulations, title 16, section 1445 states:

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6 (b) When considering the suspension or revocation of a license on the
7 grounds that a registered nurse has been convicted of a crime, the board, in
8 evaluating the rehabilitation of such person and his/her eligibility for a license will
9 consider the following criteria:

- 9 (1) Nature and severity of the act(s) or offense(s).
- 10 (2) Total criminal record.
- 11 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 12 (4) Whether the licensee has complied with any terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.
- 13 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4
14 of the Penal Code.
- 15 (6) Evidence, if any, of rehabilitation submitted by the licensee.

16 **COST RECOVERY**

17 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licentiate found to have committed a violation or violations
19 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
21 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
22 may be included in a stipulated settlement.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(September 24, 1998 Conviction for Kidnapping on May 23, 1998)**

25 14. Respondent has subjected his license to disciplinary action under sections 490 and
26 2761(f) of the Code in that Respondent was convicted of a crime that is substantially related to
27 the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

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1 a. On or about September 24, 1998, in a criminal proceeding entitled *People of*
2 *the State of Texas v. Peter John Ellington*, in the 283rd Judicial District Court, County of Dallas,
3 Texas, in Case Number F98-02380-T, Respondent was convicted on his plea of nolo contendere
4 to kidnapping Y.T., his former girlfriend.

5 b. As a result of the conviction, on November 9, 1998, Respondent was
6 sentenced to probation for 5 years, and ordered to pay fines, stay away from Y.T., attend a
7 domestic violence treatment program, attend an alcohol/drug treatment program; perform 160
8 hours of community service, undergo psychological/psychiatric testing and treatment, and be
9 subject to an electronic monitoring program where he was required to be confined to his
10 residence between the hours of 5:00 p.m. and 8:00 a.m. Respondent was permitted to leave his
11 residence only for approved work hours and other pre-approved activities. On September 24,
12 2003, Respondent was discharged from probation because he had successfully completed the
13 terms of his probation and his conviction was dismissed.

14 c. The facts and circumstances that led to the conviction are that on or about
15 April 27, 1998, victim Y.T. had a protective order against Respondent. On May 23, 1998, at
16 approximately 1:00 a.m., Respondent broke down the back door of Y.T.'s residence, grabbed her
17 and took her to the bedroom where he tied her to the bed and sexually assaulted her with a sexual
18 device. He then proceeded to choke and beat her. At about 3:30 a.m., Respondent left the
19 residence and Y.T. called the police. When Respondent left Y.T.'s home, he took Y.T.'s car and
20 parked it at a hotel parking lot. He then got into his own car and was involved in an accident
21 where he was seriously injured. At the hospital he was found to be in possession of
22 amphetamines. Respondent was arrested for sexual assault of Y.T.

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3. Taking such other and further action as deemed necessary and proper.

DATED:

February 21, 2013

for Marie Ben

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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